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FISCAL IMPACT STATEMENT

LS 7487

BILL NUMBER: SB 493

NOTE PREPARED: Jan 8, 2011

BILL AMENDED:

SUBJECT: School employee records; misconduct.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Request for Information:* This bill defines "qualified immunity" for certain individuals. It provides that certain employment records of licensed school employees, including substantiated reports of certain types of misconduct or offenses, must be provided to a school requesting the records as a part of the hiring process.

Reporting of Misconduct: It provides that a school that enters into an agreement with a licensed school employee to suppress information concerning misconduct or ongoing disciplinary investigations or allowing the employee to resign must report the agreement to the state superintendent of public instruction.

Exoneration: The bill requires records of substantiated reports of misconduct or offenses be expunged if subject of the report is formally exonerated.

Revocation of license: The bill requires the Department of Education to revoke the license of a licensed school employee if the employee is convicted: (1) in another state or under federal statutes of an offense; or (2) of a misdemeanor; that is comparable to the felonies for which the employee's license would be revoked if committed in Indiana

Suspension: The bill also allows a governing body to withhold salary and employment related benefits from a licensed school employee if there is a substantiated report of certain misconduct or offenses by the employee.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Revocation of license:* Current law requires that the Department of

Education, after due deliberation, permanently revoke the license of an employee who has been convicted of a felony as outlined in the law (e.g. kidnapping of minors, sexual misconduct, dealing in drugs). This bill extends the mandate to revoke an employee's license to include conviction of a federal offense, or an offense in another state that is comparable to a felony in Indiana that would result in license revocation.

Reporting of Misconduct: The bill also permits the Department to suspend or revoke the license of a superintendent or the equivalent authority in a charter school, nonpublic school, or state operated school or educational program who fails to report that the school or its governing body has entered into an agreement with a licensed employee to suppress or expunge information concerning the employee's misconduct, or ongoing investigation into the employee's alleged misconduct, or has allowed the employee to resign in lieu of further disciplinary action.

The Department is to report to the General Assembly annually the number of superintendents it sanctioned under this provision.

The bill's requirements are within the Department's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: *Request for Information:* This bill authorizes a school (public; accredited nonpublic; state operated school or educational program) to require that an individual who is applying for a position as a licensed school employee provide information on current and past employment with other schools. Additionally, the applicant must provide written consent for the current and former school employers to disclose any substantiated reports of certain types of misconduct or offenses (e.g. child abuse or neglect; felonies etc) that the applicant has committed or any on-going investigations into such conduct. The school is to use this information solely to determine whether to employ the individual. A school employee who provides the requested information is granted qualified immunity under this provision.

Reporting of Misconduct: Current law directs schools to immediately notify the state superintendent that a current or former employee has been convicted of a felony as outlined in current law (e.g. kidnapping of minors, sexual misconduct, dealing in drugs). This bill also requires schools to notify the superintendent if the individual is convicted of a federal offense, or an offense in another state that is comparable to a felony in Indiana under current law.

Under this bill, if a school or its governing body has entered into an agreement with a licensed employee to suppress or expunge information concerning the employee's misconduct, or about an ongoing investigation into the employee's alleged misconduct, or has allowed the employee to resign in lieu of further disciplinary action or termination for immorality, misconduct, incompetency, or willful neglect of duty, the superintendent or the equivalent authority in a nonpublic school is required to report the name of the employee and the terms of the agreement to the state superintendent. Failure to do so would result in sanctions.

Exoneration: If a current or former school employee can provide written proof of the employee's formal exoneration of the claims in the substantiated report, the school is required to expunge the substantiated report and any references to it from the school's records.

Suspension: Under current law, a teacher may be suspended from duty without pay for immorality, insubordination, neglect of duty, good and just cause, and a proven inability to perform teaching duties. This bill adds a substantiated report of misconduct to the list of offenses that warrant suspension without pay. The bill also directs that if the employee is returned to duty, the employee is immediately entitled to all pay and benefits withheld during the suspension period.

The bill gives school officials an additional tool in managing their personnel. The requirements of this bill cannot be constrained by a collective bargaining agreement.

The bill's requirements are within schools' routine administrative functions and should be able to be implemented with no additional appropriations

Explanation of Local Revenues:

State Agencies Affected: State Superintendent of Education; Department of Education.

Local Agencies Affected: All schools.

Information Sources:

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